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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ROYAL PRINTEX, INC., a California  
14 Corporation,  
15 Plaintiff,

16 v.

17 ALLY FASHION, PTY LTD, an  
18 Australian Proprietary Company,  
19 individually and doing business as  
20 ALLY FASHION, INC., a California  
21 Corporation; and DOES 1 through 10,  
22 Defendants.  
23

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

24 Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys,  
25 hereby prays to this honorable Court for relief as follows:  
26  
27  
28

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

1. Plaintiff, ROYAL PRINTEX, INC (“ROYAL PRINTEX”) is a corporation organized and existing under the laws of the State of California with its principal place of business located in the Los Angeles County.

2. Plaintiff is informed and believes and thereon alleges that Defendant ALLY FASHION, PTY LTD is a proprietary company organized and existing under the laws of Australia, and is doing business as ALLY FASHION, INC., (which is a corporation organized and existing under the laws of the State of California), (collectively “ALLY”) and is doing business in and with the state of California.

3. Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

4. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director,

1 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
2 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
3 and/or employment; and actively participated in or subsequently ratified and  
4 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of  
5 all the facts and circumstances, including, but not limited to, full knowledge of each  
6 and every violation of Plaintiff's rights and the damages to Plaintiff proximately  
7 caused thereby.

8 **CLAIM RELATED TO DESIGN R8821**

9 5. Prior to the conduct complained of herein, Plaintiff composed an original  
10 two-dimensional artwork for purposes of textile printing, which is set forth  
11 hereinbelow. It allocated this artwork Plaintiff's internal design number R8821  
12 (hereinafter the "Subject Design"). This artwork was a creation of Plaintiff and/or  
13 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by  
14 Plaintiff.

15 6. Plaintiff applied for and received a United States Copyright Registration  
16 for the Subject Design. The registration was assigned No. VA 1-130-654 by the U.S.  
17 Copyright Office, and became effective as of February 8, 2013.

18 7. Prior to the acts complained of herein, Plaintiff sampled and sold fabric  
19 bearing Subject Design to numerous parties in the fashion and apparel industries. A  
20 true and correct image of the Subject Design is presented below:

21 ///

22 ///

23 ///

Subject Design:

8. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design, ALLY, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of Subject Design (“Subject Product”). Such Subject Products include but are not limited to COMBI garments sold under, *inter alia*, SKU or Style No. SK1268P-4SLA. Such Subject Product bore the “Ally Fashion” label, and identifying information indicating said garments were manufactured by, caused to be manufactured by, or supplied to ALLY. Comparisons of the Subject Design and the design on the Subject Product, and comparisons of certain details from these designs, are set forth below:



Subject Design



Subject Product



Subject Design Detail



Subject Product Detail



9. A comparison of the Subject Design and the non-exclusive exemplar of Subject Product makes apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar.

**FIRST CLAIM FOR RELIEF**

(For Copyright Infringement – Against All Defendants, and Each)

10. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally

1 distributed copies of the Subject Design by third-party vendors and/or DOE  
2 Defendants, including without limitation international and/or overseas converters  
3 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments  
4 manufactured and sold to the public bearing some of the many yards of the lawful  
5 fabric provided by Unicolors to its customers. Access is also established by the  
6 striking similarity between the designs at issue.

7 11. Plaintiff is informed and believes and thereon alleges that one or more of  
8 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is  
9 further informed and believes and thereon alleges that said Defendant(s) has an  
10 ongoing business relationship with Defendant retailers, and each of them, and  
11 supplied garments to said retailer, which garments infringed the Subject Design in  
12 that said garments were composed of fabric which featured unauthorized print  
13 design(s) that were identical or substantially similar to the Subject Design, or were  
14 an illegal derivation or modification thereof.

15 12. Plaintiff is informed and believes and thereon alleges that Defendants, and  
16 each of them, infringed Plaintiff's copyright by creating, making, and/or developing  
17 directly infringing and/or derivative works from the Subject Design and by  
18 producing, distributing and/or selling garments which infringe the Subject Design  
19 through a nationwide network of retail stores, catalogues, and through on-line  
20 websites.

21 13. Due to Defendants' acts of infringement, Plaintiff has suffered substantial  
22 damages to its business in an amount to be established at trial.

23 14. Due to Defendants' acts of infringement, Plaintiff has suffered general and  
24 special damages in an amount to be established at trial.

25 15. Due to Defendants' acts of copyright infringement as alleged herein,  
26 Defendants, and each of them, have obtained direct and indirect profits they would  
27 not otherwise have realized but for their infringement of the Subject Design. As  
28

1 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and  
2 indirectly attributable to Defendants' infringement of the Subject Design in an  
3 amount to be established at trial.

4 16. Plaintiff is informed and believes and thereon alleges that Defendants, and  
5 each of them, have committed acts of copyright infringement, as alleged above,  
6 which were willful, intentional and malicious, which further subjects Defendants,  
7 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
8 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per  
9 infringement. Within the time permitted by law, Plaintiff will make its election  
10 between actual damages and statutory damages.

11 **SECOND CLAIM FOR RELIEF**

12 (For Vicarious and/or Contributory Copyright Infringement - Against All  
13 Defendants)

14 17. Plaintiff repeats, realleges, and incorporates herein by reference as though  
15 fully set forth, the allegations contained in the preceding paragraphs of this  
16 Complaint.

17 18. Plaintiff is informed and believes and thereon alleges that Defendants  
18 knowingly induced, participated in, aided and abetted in and profited from the illegal  
19 reproduction and subsequent sales of garments featuring the Subject Design as  
20 alleged herein.

21 19. Plaintiff is informed and believes and thereon alleges that Defendants, and  
22 each of them, are vicariously liable for the infringement alleged herein because they  
23 had the right and ability to supervise the infringing conduct and because they had a  
24 direct financial interest in the infringing conduct.

25 20. By reason of the Defendants', and each of their, acts of contributory and  
26 vicarious infringement as alleged above, Plaintiff has suffered and will continue to  
27 suffer substantial damages to its business in an amount to be established at trial, as  
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1 well as additional general and special damages in an amount to be established at  
2 trial.

3 21. Due to Defendants', and each of their, acts of copyright infringement as  
4 alleged herein, Defendants, and each of them, have obtained direct and indirect  
5 profits they would not otherwise have realized but for their infringement of the  
6 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits  
7 directly and indirectly attributable to Defendants' infringement of the Subject  
8 Design, in an amount to be established at trial.

9 22. Plaintiff is informed and believes and thereon alleges that Defendants, and  
10 each of them, have committed acts of copyright infringement, as alleged above,  
11 which were willful, intentional and malicious, which further subjects Defendants,  
12 and each of them, to liability for statutory damages under Section 504(c)(2) of the  
13 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per  
14 infringement. Within the time permitted by law, Plaintiff will make its election  
15 between actual damages and statutory damages.

### 16 **PRAYER FOR RELIEF**

17 Wherefore, Plaintiff prays for judgment as follows:

### 18 **Against All Defendants**

#### 19 **23. With Respect to Each Claim for Relief**

- 20 a. That Defendants, each of them, and their agents and employees be  
21 enjoined from infringing Plaintiff's copyrights in any manner,  
22 specifically those for the Subject Design;
- 23 b. That Defendants, and each of them, account to Plaintiff for their profits  
24 and any damages sustained by Plaintiff arising from the foregoing acts  
25 of infringement, the exact sum to be proven at the time of trial, or, if  
26 elected before final judgment, statutory damages as available under the  
27 Copyright Act, 17 U.S.C. § 101 et seq.;



- 1 c. That Plaintiff be awarded its attorneys' fees as available under the  
2 Copyright Act U.S.C. § 101 et seq.;
- 3 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 4 e. That Plaintiff be awarded the costs of this action; and
- 5 f. That Plaintiff be awarded such further legal and equitable relief as the  
6 Court deems proper.

7 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
8 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

9 Respectfully submitted,

10  
11 Dated: August 4, 2015

12 By: /s/ Scott Alan Burroughs  
13 Scott Alan Burroughs, Esq.  
14 Trevor W. Barrett, Esq.  
15 Justin M. Gomes, Esq.  
16 DONIGER / BURROUGHS  
17 Attorneys for Plaintiff  
18 ROYAL PRINTEX, INC.  
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